

Case 8:13-cv-00879-AW Document 1 Filed 03/22/13 Page 1 of 24
Dulceyos Jacobs 341-334
Plaintiff
14100 McMullen Hwy
Lumberland, MD 21502
V

Wadeen Bobby Shearis,
Colin Murray, Jasmin
Wilson, William Beasley,
Lraig Fluey et al
Defendants

In the United States
District Court for the
District of Maryland
Civil Action No
AW-13-

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I Jurisdiction Venue.

MAR 22 2013

AT BALTIMORE
CLERK U.S. DISTRICT COURT
DISTRICT OF MARYLAND
AMF DEPUTY

- 1) This is a civil action authorized by 42 U.S.C. Section 1983 to redress the deprivation, under color of state law, of rights secured by the Constitution of the United States. The Court has jurisdiction under 28 U.S.C. Section 1331 and 1333(a)(3). Plaintiff seeks declaratory relief pursuant to 28 U.S.C. Section 2201 and 2202. Plaintiff's claims for injunctive relief are authorized by 28 U.S.C. Section 2283 & 2284 and Rule 65 of the Federal Rules of Civil Procedure.
- 2) The Maryland courthouse is the appropriate venue under 28 U.S.C. Section 1331(b)(2)

because it is where the events giving rise to this claim occurred.

- (3) Plaintiff files this claim under the "common law danger exception"
- (4) the intent of the practices complained of below has been to deprive Plaintiff of his Civil Rights and otherwise adversely affect him.
- (5) The Plaintiff has exhausted his procedural administrative requirements
- (6) The unlawful practices complained of below were and continue to be intentional.

Plaintiff

- (1) Plaintiff Daniel Jacobs 341-334 is a citizen and resident of Maryland. Plaintiff is currently incarcerated at North Branch Correctional Institution (N.B.C.I.) which is located in Cumberland Maryland.

Defendants

(8) Defendant Bobby Shearis is the warden of North Beach Correctional institution. (n.b.i.) He is legally responsible for the operation of N.B.I. and for the welfare of all the inmates of that prison.

(9) Defendant William Bearden upon information and belief is the medical director or medical director at N.B.I. working individually and as the medical and/or apparent agent servant and/or employee of Horizons. Upon information and belief the Bearden duties include but are not limited to (a) assigning the appropriate healthcare providers to patients. (b) ensuring patients complaints are addressed appropriately, and (c) responding appropriately to patients sick calls.

(10) Defendant Janine Wilmore upon information and belief is the nursing director or medical director at N.B.I. working individually and as the medical and/or apparent agent servant and/or employee of Horizons. Upon information and belief the Wilmore duties include but are not limited to (a) assigning the appropriate

to nursing staff (b) ensuring providers orders and prescriptions are followed (i) answer complaints when filed by patients.

(11) Defendant A. Jouebert M.D. is a duly licensed physician authorized to practice medicine and is the Head Doctor operating Both Western Region prisons in Maryland and Western Correctional Institution (w.c.i) and North Branch Correctional Institutions (N.B.I.) individually and as an internal doctor/ or apparent agent servant doctor/ or employee of Horizon. Dr Jouebert was tasked with providing adequate medical care and treatment to the plaintiff at w.c.i.

(12) Defendant Holmes Otley M.D. is a duly licensed physician authorized to practice medicine and working at N.B.I. individually and as an internal doctor/ or apparent agent servant doctor/ or employee of Horizon. Dr Otley was tasked with providing medical care and treatment to the plaintiff at N.B.I.

(13) Defendant Doe Espina, M.D. is a duly licensed physician authorized to practice medicine individually and working at W.M.I. individually and as an actual and/or apparent agent servant and/or employee of Horizon. Dr. Espina was tasked with providing medical care and treatment to the plaintiff at W.M.I.

(14) Defendant Greg Flury, P.R.N. is a duly licensed physician assistant authorized to practice medicine and working at N.B.W.I. individually and as an actual and/or apparent agent servant and/or employee of Horizon. Mr. Flury was tasked with providing medical care and treatment to the plaintiff.

(15) Defendant Kristina "Doc" Mcdaniel Reynolds, D.N.A. is duly licensed medical records clerk working at N.B.W.I. individually and as an actual and/or apparent agent servant and/or employee of Horizon, Ms. Kristina "Doc" was tasked with providing treatment to the plaintiff.

(16) Defendant Horizons Inc is a PRIVATE Corporation engaged in the business of providing healthcare services at NBI at all times. Mentioned Horizons is engaged in promulgating policies and protocols relating to healthcare services at NBI in addition Horizons is responsible for implementing and adhering to these policies and protocols as well as training physicians, nurses, and other health care staff at all times relevant Horizons employs more than twenty five (25) employees and otherwise fit the jurisdictional prerequisites. of section 1983.

Each defendant is sued individually and in his or her official capacity. All times mentioned in this complaint each defendant is sued under color of state law.

Faults.

(17) Back in April 4 2011 I sprained my right ankle while playing basketball in the yard of N.B.C. I saw Dr. Flury who ordered me to have an X-RAY done (2) days later I was told it was just a very bad sprain to just give it time and I was able to continue doing things I explained I was in very very very severe.

PAIN, that Doctor was not helping.

(18) Now is "May" because my foot still looked like (2) baseballs I asked for another X-RAY and requested for stronger PAIN meds because I continued to be in PAIN, and fear the way my ankle was still swollen so the thing had to be wrong, I explained all this to Dr. Otey, on May 9, 2011 new X-RAYS were done but nothing stronger for PAIN.

(19) Now as of May 9, 2011 I was putting in sick calls asking for the results of those X-RAYS, also asking why my ankle was still in PAIN and extremely swollen, that it hurt to walk, I couldn't place any pressure on it at all, I filled out well over 19 sick calls and had 13 follow-ups by Dr. Otey, and Dr. Fluey no one should find the recent X-RAY results, but they both believe nothing is wrong, that I should report to work and stop showing favor to the ankle, do things on it & exercise on it.

(20) Upon information and belief the X-RAY tech

who did the X-RAY NO TIME WOULD FIND WAS FIRED FROM HER JOB, AND A LOT OF THE X-RAYS SHE FILES SHE HAD WERE MISPLACED OR LOSTED, THIS NURSE STILL REMAINS A JANIE DOE TO ME EVEN AFTER REQUESTING SEVERAL TIMES FOR TO BE REVEALED TO ME.

(21) NOW TOWARDS THE END OF MAY I'M STILL BEING TOLD NOTHING IS WRONG WITH YOUR FUNKLE, I'M EXPLAINING TO ZOREG FLUEY AND DR OTTEY THAT MLY IS UNSTABLE AND IT GIVES OUT ON ME, THEY TOLD ME I NEED TO EXERCISE IT, TO STOP PUTTING IN SICK HALLS, AND FEAR THAN THE DEFENDANT BEGAN TREATING ME AS A NUISANCE OR BOTHHEE I CONTINUED TO HOSPITALS OF PAIN BUT NO "EFFECTIVE" PAIN MEDICINE WAS GIVEN TO ME.

(22) NOW ON SEPT 10, 2011, FOLLOWING THE ADVICE OF BOTH DR OTTEY AND ZOREG FLUEY I TRY TO JOG THE YARD LIGHTLY AFTER 30 TO 40 STEPS MLY PIGHT FUNKLE COMPLETELY GIVES OUT ON ME.

(23) ONCE AGAIN I SEE DR OTTEY WHO ORDERS ME TO HAVE ANOTHER X-RAY AT W.I.I THIS SEPT 12, 2011 IN SEPT 22, 2011 THAT X-RAY SHOWED "NO

"old injury to an old ankle fracture" the issue
is that these defendants continuously
told she was a really bad sprain, and that
there was no fracture and nothing was
seriously wrong.

24) Fears stay until newest time I explained
to these defendant my pain level was from
Eight to a Nine, that the pain is so much
would keep me up at night, stop me from
walking around in the day, and during times
when the pain was so severe my entire
leg hurt to the point I wish it was cut
off. And now at mere 5 months later and
she continuously enduring it was revealed
I had an ankle fracture, these defendants
failed to accurately read the first x-ray.

25) After this I was ~~given~~ given stretches
and sole ibuprofen for pain, which did
nothing to sooth my throbbing ankle and
caused me stomach pain, I continued
complaining of pain but no stronger or
"effective" pain meds were given.

- 26) NEXT ABRUPTLY AND WITHOUT EXPLANATION
MY TURMICHES WERE CONFISCATED, AND I WAS
GIVEN A BLACK BOOT TO PLATE OVER MY FOOT
AND WALK. I IMMEDIATELY EXPLAINED THIS
CAUSED DISCOMFORT, AND PAIN WHEN I PLATED
PRESSURE ON MY ANKLE,
- 27) ONLY FIFTEEN DAYS AFTER AN ADMINISTRATIVE REMEDY
PROCEDURE (A.R.P.) COMPLAINT TO THE WARDEN
BOBBY SHEARIN I WAS PLATED ON A WAITING
LIST TO BOIS SNAKES HOSPITAL TO BE SEEN.
- 28) WHEN I SAW DR ASTHOK KRISHNASWAMY AT
BOIS SNAKES HOSPITAL I WAS TOLD THAT
BECAUSE OF CONTINUED WALKING ON MY RIGHT
ANKLE ALL YOUR LIGAMENTS ARE LOOSE AND YOU
NOW NEED SURGERY. I SAID DR ASTHOK EXPLAIN
ED NO ONE SHOULD HAVE TOLD ME IT WAS
NOTHING WRONG NOR NO ONE SHOULD HAVE TOLD
YOU IT WOULD BE OKAY TO WALK ON YOUR ANKLE.
- 29) I HAD SURGERY ON FEB 2, 2012 I WAS SUPPOSED
TO BE PLATED IN THE INFIRMARY UNTIL
MY NEXT FOLLOW, BUT OVER THE WEEKEND WHILE
I WAS HOUSED AT JUJ (WHICH IS A HOLD OVER

Stop where PRISONERS STAY WAITING TO RETURN
TO THE WESTERN REGION) I WAS MADE TO
"WALK" IMMEDIATELY AFTER SURGERY, THE DOCTOR
TOLD ME TO GET MY DRESSINGS UNHANGED AND
PAIN KILLS. NOW THE DOCTOR'S ORDER WAS FOR
ME TO "REMAIN" BED RIDDEN KEEPING THE
EXTREMITY ELEVATED, NOW BECAUSE OF THIS
WALKING AND WITH EVERY STEP IT FEELS IF
MY 43 STITCHES HAD TORN OR HAD POPPED.

(30) IN THE BANK IS THE HUMBERTON REGION I
WAS PLACED IN THE INFIRMARY AT WESTERN
CORRECTIONAL FACILITY (FURTHER MENTIONED AS
W.C.F.) ALSO NOTA N.B.C.F. DOES NOT HAVE
A INSTITUTIONAL INFIRMARY OF ITS OWN
SO PRISONERS OF N.B.C.F. ARE HOUSED THERE".
WHILE THERE I INFORMED DR JAUDET THAT I
WAS MADE TO WALK AND I BELIEVE MY STITCHES
HAD POPPED, AND THAT THERE IS EXCESS
LIQUID PAIN IN MY SWELLING, SHE EXPLAINED TO
ME THEY WERE NOT TORN, AND WHEN I TRIED TO
SHOW HER WE HAD DISCUSSED I INSISTED THAT THEY
HAD POPPED, SHE BURNED ME FURIOUSLY, AND
WAS ADMITMENT THEY WERE INJURED. AS FAR
AS MY PAIN SHE TOLD ME IT WAS JUST LIGHTNESS

seen the sutures and done the reassess
if surgery wears off it will subside she
then ended the sick call.

Doctor: This sick call with Dr. Joubert was
13 days after my surgery.

(31) Now on my follow-up with Dr. Joubert 7 weeks
later (when his order is valid for 2-3 weeks)
at Boo Senour Hospital he told me all my
stitches were removed and asked me who
did it, he said it was done by him to do
the one to take them out, I told him how
that I have been made to walk, and I'm
sure that's how my stitches knotted out, Dr
Joubert who diagnosed me a walker, and done
stated that he didn't believe my stitches.

(32) Since I was now diagnosed a walker and
Walker's free set allowed in office and due
to the Dr. Joubert and Dr. Inspira leaving
he send me to Dr. without my walker
I wrote Dr. Joubert about the situation
to, and I was transferred to W.A.C
with the Walker.

(33) Now I'm transferred over w.w. i say "wound" is still open and instead of being housed in the infirmary, I'm moved to housing unit (3) is a medical cell. But was made to walk (2) times a day to get dressings though (3) times a day to get pain meds and whenever I had to eat, I'd eat & sit in all the... I'm being made to do all this while the wound from my surgery has issues to bleed, and the bleeding wasn't deep it was a steady flow of blood. None of these Defendants Dr Joubert, or Dr Espina found it necessary to follow Dr Ashok order from his school which was as follows keep extremity elevated, no exercising or "strenuous activity", apply ice to operative site, and use of cane when standing. I explained to these Defendants and showed them my wound was bleeding. Dr Joubert and Dr Espina both told me it was healing fine. I explained to them it still bleed cause I think something is wrong from me being made to walk.

(34) Now because of this I was sitting sick

Call 25th and 26th, 2012 after 3rd P. And on the
29th I wrote to Dr. Wagner to address the
issue of my treatment. Inside the letter I
explained everything I explained to these
Defendants that my medical orders were not
being followed. Dr. Wagner was open and respond-
ing, and the pain associated with the two
injuries I was receiving.

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35) On June 11, 2012 I was called to speak with
the Nurse Manager (Nurse Bradley) with, the 2nd floor
and she does not. Wagner had received my
letter, and wanted him to have the signs
soreness, stating my treatment was being
addressed, and he would be looking into
the medical issues to ensure they will
be addressed. I had being request a wheel-
chair, because the slightest touch of ankle
to the ground was causing pain that felt
worse then being on fire" & "would not take
it. That day after the meeting I was
given a wheelchair, I also explained my
wound soon suggest was still bleeding, I
also complained to the Bradley that "I had

filled 5 and the previous 3 days slade to leave

and the pain I was in, and how those
supp were either ignored or dismissed.

36) Immediately the next day after this
meeting I was placed in a "isolation
well" (note: isolation wells are used to
watch suicidal and/or disruptive prisoners
my behavior didn't display either) when I
inquired as to why I was being placed
inside the well I was told it was from
the security chief Thomas. Because medical
said I was playing with my wound, I was
housed in this isolation well for 26 days
without any property, no pain, and still
with a open wound.

37) On the 26 day I was told sign off for
paper releasing the fear use of Walker
and I would move the well and would
be sent back to unit, as to which I
refused, I was released from the well
and placed back in unit 3 with a
wheel chair and Walker.

38) Finally it was approved or so I was told

for me to return to N.B.H. with the Walker this was July 5 2012 I was placed in a medical cell with the Walker and put on feed in status basically no movement "etc" now on Sept 20, 2012 my Walker was taken from me because NBH medical staff Dr. Otley, PA Flury, Bill Beasley, etc who never wrote the paperwork for me to have it. So now on the 20th I was being forced to walk unassisted. I filed a rep it was dismissed.

- 39) now from the last date mentioned above on 1-17-13 I HAVE BEEN subjected to these Defendants "not following medical orders stopping PA's feeds, forcing me to walk injured and treating me as a bother instead of a patient.
- 40) now on 1-17-13 I finally had same day surgery to bring down the swelling to my right ankle at the same time I was walking on it. After surgery I was told the stitches would be removed in (10) days but they were not removed until 2/18/13

" De otteys words to me were I do not know why they are still in I requested to have them removed!" He also stated "I put the order in when I saw you on 1-23-13.

Note: Also because of the stitches being in to long I now have a big bruise or skin discoloration on the outside of my right ankle when saw by Dr. Seshok at Bow Sehoul he was upset about this.

- 41) now 1-17-13 my doctors orders for Bow Sehoul Hospital at discharge were as follows
 - 1) care for incision
 - 2) dressing change
 - 3) apply ice to operative site (30) days
 - 4) stay shower in (2) days
 - 5) keep extremity elevated (30) days
 - 6) no exercising or strenuous activity for (30) days
 - 7) remove stitches in (10) days
 - 8) use of cane at all times for standing.The Doctor who "performed my surgery" demand that this is what was suppose to be follow after my surgery, no one should have asked or denied me this order, or even perceived them as unsuitable.

42) 1/22/2013 I Received paperwork for Bobbo
S2 Bush. Bottom tier status, use of cane
only when walking, use of Handicap sink
accessible shower, pillow all for (6) months
and work status.

43) now I requested a medical well because
I need a cane for standing, and canes
are not allowed in cells in this prison
so I have no stable support when I inside
the cells and this issue still exist as
I write this now, I HAVE NOT RECEIVED
THE ORGANIC PILLOW TO KEEP MY BODY
ELEVATED AS DIRECTED. now it is
obvious to me a layperson, so it is defin
itely obvious to these defendants my
need for a medical Handicap well
BECAUSE those cells providing rails inside
of them to provide support when standing
inside the well.

44) now not to confuse this court but i
just go back to the meeting I had on 8/29/12
and I explained all my issues to
Bill Beasler who is the Director of Medi

-ual He never looked into any of my complaints and I continued to allow my treatment to be as stated throughout this claim.

45) Everyday I've been requesting for my medical file from Ms. Kristina "Doe" (medical records title) I've filed complaints and within Bill Beaten and spoke to Ms. Kristina "Doe" myself about the need of my medical records, she has stubbornly refused my requests to them.

Note upon information and belief I am not the prisoner who experiences this from Ms. Doe, its her if she intentionally denies requests for records cause she wants to hinder or even bar prisoner's from filing claims, knowing a prisoner's medical file is the best definite proof a prisoner has to support his claims when filing to this court, I've still not been given this.

46 At all times pertinent to this claim.

at 20th, the defendants were subject
under color of state law.

1 Failure to provide Inadequate medical care

50) Each of the Defendants had a duty
to provide "Inadequate medical care" to
this Plaintiff who suffered and was
likely to suffer from 3 serious and obvious
medical conditions. This Plaintiff repeate-
dly complained to the Defendants about
his serious medical need and limitations
but Defendants failed and/or refused to
summons the appropriate medical care to
address his serious and obvious medical
conditions. When the Defendants were sum-
moned to the Plaintiff there was no
effort made to appropriately address his
limitations or needs. This resulted in a
complete failure on the part of the Defend-
ants to provide the Plaintiff with ade-
quate medical intervention.

51) Despite the Defendant's failure and/or

Nonconstructive knowledge of the Plaintiff's desperate need for medical care and attention, Defendants failed or refused to provide the Plaintiff with the adequate medical assistance. To date the Plaintiff's medical issues continue to be ignored by the Defendants.

- 52) As a direct and proximate result of Defendants' actions and/or omissions, the Plaintiff suffered and continues to suffer great physical pain, great dental pain, and shock to his nervous system. The Plaintiff is entitled to relief as set forth in his Request for Relief.
- 53) The Defendants, by and through their "actions and/or inactions" are guilty of recklessness, oppression, negligence and/or malice. As a consequence, Plaintiff is entitled to punitive damages.

Pray for
Relief.

Wherefore, Plaintiff respectfully prays that this Court enter Judgment granting:

- 54) A declaration that the acts and omissions described herein violated Plaintiff's rights under the Constitution and Laws of the United States.
- 55) A preliminary and permanent injunction ordering Defendants Kristina "Doc" to provide me with my complete medical file.
- 56) A preliminary and permanent injunction ordering Defendants, Shears, Beamen, Wilbore, Utley, and Fluey to provide me with a medical cell, since use of a lane is restricted inside of Wells St. D.B.T.L. or to transfer me to a person who can handle my many medical requirements.
- 57) A preliminary and permanent injunction ordering these Defendants to start following the outside Doctor's orders of 300 labour.
- 58) that the Court will award compensatory

DAMAGES IN THE AMOUNT OF 1,000,000 WHICH
WILL FAIRLY AND REASONABLY COMPENSATE THE
PLAINTIFF FOR (i) HIS PHYSICAL AND EMOTIONAL
PAIN, SUFFERING, EMOTIONAL DISTRESS, HARSHSHIP
SHOCK, SUFFERING, WORRY, ANXIETY, SLEEPLESS-
NESS, AND TERROR. (ii) FUTURE PAIN AND SUFFER-
ING THAT HE IS REASONABLE CERTAIN TO EXPERI-
ENCE.

59) PUNITIVE DAMAGES IN THE AMOUNT OF 1,000,000
AGAINST THE DEFENDANTS

(60) NOMINAL DAMAGES IN THE AMOUNT OF 1,000,000
AGAINST THE DEFENDANTS

ALL TOTAL \$3,000,000

A JURY TRIAL ON ALL ISSUES TRIABLE BY JURY

PLAINTIFF'S COST FOR FILING THIS SUIT.

AND ADDITIONAL RELIEF THIS COURT DEEMS
JUST, PROPER, AND INQUITABLE.

DATE 30/12/2013

Signed 28/3/2013

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LODGED _____ RECEIVED _____

MAR 22 2013

AT BALTIMORE
CLERK U.S. DISTRICT COURT
DISTRICT OF MARYLAND DEPUTY
BY

Delmas J. Jacobs
14100 West 112nd Street
Overland Park, Kansas
2:502

Verifications

AW-13-879

I HAVE READ THE FOREGOING COMPLAINT AND
HEREBY AS TO STATEMENTS ALLEGED THEREIN ARE
TRUE, EXCEPT AS TO STATEMENTS ALLEGED ON INFO
STATUTORY AND BELIEF AND AS TO THOSE, I BELIEVE
THEIR TO BE TRUE, I CERTIFY UNDER PENALTY
OF PERJURY THAT THE FOREGOING IS TRUE AND
WARRANT.

Exhibited at Lumberland,
Streylad on ^{date} 3.12.2013

~~Sigs. 1 2 3 4~~